IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE THIRTIETH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

And
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT APPEAL NO : 1602 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 27/08/2004 in WP No: 13516 OF 2004 on the file of the High Court.)

Between:

1 Ambati Madhu Mohan Krishna, S/o Ranga Rao,
R/o Vijayawada, Krishna District
2 Betapudi Venkat Rao, S/o Musalaiah,
R/o Mangalagiri, Guntur District
3 Linga Samba Murthy, S/o Laxmaiah,
R/o Guntur, Guntur District
4 Chennamsetty Prasad Rao, S/o Subba Rao,
R/o Guntur, Guntur District

..... APPELLANTS

AND

1 Revenue Divisional Officer, Guntur, Guntur District
2 Mandal Revenue Officer, Mangalagiri Mandal, Guntur District
3 Patchava Subba Ratnam, W/o Vemaiah,
R/o Piduguralla, Guntur District
4 Patchava Swarajya Lakshmi, D/o Vemaiah,
R/o Piduguralla, Guntur District

.....RESPONDENTS

Counsel for the Appellants: MR.V.VENKATARAMANA

Counsel for the Respondent Nos.1 & 2: GP FOR REVENUE

Counsel for the Respondent Nos. 3 & 4: None present.

The Court made the following:

Oral order: (Per: The Hon'ble Mr. Justice B. Sudershan Reddy)

The appellants, claim to be the true and absolute owners of land ad-measuring Ac.7-98 cents in survey Nos. 373 and 373/2 of Atmakur village, applied for and obtained Pattedar pass books and title deeds, which were granted by the 2nd respondent--the Mandal Revenue Officer, Mangalagiri Mandal, Guntur district.

The 3rd and 4th respondents made applications to the 2nd respondent-Mandal Revenue Officer duly intimating him the fact that they have purchased the land under the registered sale deeds from one Ongolu Satyabhanu Abhaya Kumar and others in March, 2003. The Mandal Revenue Officer, having entertained the applications filed by the 3rd and 4th respondents, made an inquiry into the matter and submitted a report to the 1st respondent-Revenue Divisional Officer, Guntur; and the Revenue Divisional Officer, Guntur having considered the report submitted by the Mandal Revenue Officer, ordered the deletion of entries made in favour of the appellants. The appellants challenged the said order in the writ petition.

Learned Single Judge of this court dismissed the writ petition, at the stage of admission, holding that it is always competent for the Mandal Revenue Officer or the Revenue Divisional Officer or any higher officials of the department to make necessary corrections in record of rights.

In this writ appeal, Mr. Vedula Venkata Ramana, learned counsel appearing for the appellants contended that necessary entries in the record of rights were made and pattadar pass-books and title deeds were also issued in favour of the appellants by the Mandal Revenue Officer as early as in the year 1995 and 1996 and they have become final. The applications filed by the 3rd and 4th respondents could not have been received by the Mandal Revenue Officer for the purposes of making any inquiry and submitting a report to the Revenue Divisional Officer. The procedure adopted by the Mandal Revenue Officer, is

contrary to the scheme and provisions of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'). We find substantial force in the submission made by the learned counsel for the appellants.

Admittedly, the 3rd and 4th respondents did not prefer any appeal whatsoever against the orders of the 2nd respondent-the Mandal Revenue Officer, incorporating the names of the appellants in the record of rights and as well as the issuing of pattedar pass books and title deeds. In the absence of any such appeal, the Revenue Divisional Officer could not have passed any order, even on the strength of the report purported to have been submitted by the Mandal Revenue Officer. Preparation and updating of records in lands under Section 3 of the Act, immediately after the commencement of the Act, is different from amendment and updating of records, on intimation of fact of acquisition of any right referred to in Section 4 of the Act. The case on hand is not one of preparation and updating of record of rights. It is not a case where the 3rd and 4th respondents aggrieved by the preparation of record of rights under Sub-section (1) of Section 3 of the Act made any application for rectification of the entry so made in the process of preparation and updating of record of rights. The records were updated and a notification was published in the District Gazette. The appellants claimed that they have acquired some rights in the land in question and accordingly intimated the factum of acquisition of rights to the Mandal Revenue Officer, who, after making the inquiry, passed orders making amendment in the record of rights and accordingly incorporated the names of the appellants in the record of rights. The Mandal Revenue Officer also issued Pattedar pass books and the title deeds.

The 3rd and 4th respondents did not challenge the orders of the Mandal Revenue Officer in any proceedings, but made separate independent applications to the Mandal Revenue Officer for incorporating their names on the strength of alleged purchase of land under the registered sale deeds in March, 2003 by which time the names of the appellants were already incorporated in the record of rights pursuant to the orders passed by the Mandal Revenue Officer. The entries made in the name of the appellants could not have been altered by the Mandal Revenue Officer on the strength of the applications received by him from the 3rd and 4th respondents, even under the directions of the Revenue Divisional Officer. The whole procedure adopted for making corrections and amendments in the

record of rights is *ultra vires*. The Revenue Divisional Officer could not have entertained any such application and report from the Mandal Revenue Officer for the purposes of issuing directions to amend the records. In the circumstances, we find it very difficult to sustain the order passed by the learned single Judge. It is needless to observe that Rule 13 of the A.P. Rights in Land and Pattadar Pass Books Rules, 1989 (for short 'the Rules') are applicable and prescribed a procedure for preparation and updating the records under Section 3 of the Act and not for the purposes of amendment and updating of record of rights based on the intimations received of acquisition of rights under Section 4 of the Act.

Learned counsel for the 3rd and 4th respondents faced with the situation seeks leave of this court to prefer an appeal against the orders of the Mandal Revenue Officer incorporating the names of the appellants in the record of rights and as well as the order issuing pattedar pass books and title deeds to the appellants. Leave is accordingly granted. The appeal, if any preferred by the 3rd and 4th respondents, may have to be considered on its own merits uninfluenced by the observations made herein, since we have not expressed any opinion whatsoever on the question as to whether the names of the appellants have been properly incorporated in the record of rights and title deeds or not. The judgment under appeal is set aside. The writ appeal is accordingly allowed. No costs.

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B. SUDERSHAN REDDY, J

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T.CH. SURYA RAO, J

Dt. 30-11-2004

Pvks/*

The Rule nisi has been made absolute, as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Tuesday, the thirtieth day of November, 2004.

To

1. The Revenue Divisional Officer, Guntur, Guntur District
2 The Mandal Revenue Officer, Mangalagiri Mandal, Guntur District

3.2 CCs., copies to the Government Pleader for Revenue, A.P. High Court Buildings, Hyderabad (OUT).

4. 2 CD copies.

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